4462

BILL NO. S-79-04-19

SPECIAL ORDINANCE NO. S-79-79

AN ORDINANCE approving an Agreement with Westwood Development, Inc., for construction of a sanitary sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Agreement dated April 9, 1979, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works and Westwood Development, Inc., Developer, for:

SANITARY SEWER

LINE A
Beginning at a proposed pump station located in the northeast corner, Lot 15 of Westwood Valley, Section 1; thence southwesterly generally following the north property line of Lots 15 through 29 inclusive, one thousand fifteen ± lineal feet terminating at a proposed manhole located 5± lineal feet east of the northwest corner of Lot 30 of Said Addition;

LINE B
Beginning at a proposed sanitary sewer manhole located 1± lineal feet west of and 5± lineal feet south of the northwest corner of Lot 20 of Said Addition, then southeasterly 290± lineal feet to a proposed manhole located on the northeast corner of Lot 45 of Said Addition, then southwesterly in and along an easement to the rear of Lots 42 through 45 and 31 through 35 inclusive, 800± lineal feet terminating at a proposed manhole;

LINE C
Beginning at a proposed pump station located near the northeast corner of Lot 15 thence southerly in an easement to the rear of Lots 7 through 14 inclusive, 1160± lineal feet terminating at a proposed clean-out located 5± lineal feet south of and 5± lineal feet west of the northeast corner of Lot 6 of Said Addition;

LINE D
Beginning at a proposed manhole located 1± lineal feet north of and 5± lineal feet west of the southeast corner of Lot 8 of Said Addition, thence westerly 310± lineal feet to a proposed manhole located on the common property corners of Lots 49 and 56 of Said Addition, thence northerly 195± lineal feet to a proposed manhole located 1± lineal feet east of and 5± lineal feet north of the southeast corner of Lot 52 of Said Addition;

of which the developer shall pay the entire cost and expense of the construction of said sewer, all as more particularly set forth in said agreement which is on file in the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof and is hereby in all things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Councilman

APPROVED AS TO FORM AND LEGALITY,

CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on City Utilities (~~and the City Plan Commission for recommendation~~) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19__, at _____ o'clock _____ M., E.S.T.

DATE: 4-24-79.

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Hinga, and duly adopted, placed on its passage.

PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BURNS	✓				
HINGA	✓				
HUNTER	✓				
LOSES	✓				
NUCKOLS	✓				
SCHMIDT, D.	✓				
SCHMIDT, V.	✓				
STIER	✓				
TALARICO	✓				

DATE: 5-22-79

Charles W. Westerman /ne
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL) (APPROPRIATION) ORDINANCE (~~RESOLUTION~~) No. S-79-79 on the 22nd day of May, 19 79

ATTEST: (SEAL)

Charles W. Westerman /ne
CITY CLERK

Winfield C. Moss Jr.
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 23rd day of May, 19 79, at the hour of 11:30 o'clock A. M., E.S.T.

Charles W. Westerman /ne
CITY CLERK

Approved and signed by me this 1st day of June, 19 79 at the hour of 9:00 o'clock A M., E.S.T.

Robert E. Armstrong
MAYOR

61-106-1 4/9/79

Council 4-24-79

AGREEMENT
FOR
SEWER EXTENSION

THIS AGREEMENT made in triplicate this 9th day of April, 1979 by and between WESTWOOD DEVELOPMENT INC. hereinafter referred to as "Developer", and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "City", WITNESSETH:

WHEREAS, the Developer desires to construct a sanitary sewer described as follows:

LINE A

Beginning at a proposed pump station located in the northeast corner, Lot 15 of Westwood Valley, Section 1; thence southwesterly generally following the north property line of Lots 15 through 29 inclusive, one thousand fifteen ± lineal feet terminating at a proposed manhole located 5± lineal feet east of the northwest corner of Lot 30 of Said Addition.

LINE B

Beginning at a proposed sanitary sewer manhole located 1± lineal feet west of and 5± lineal feet south of the northwest corner of Lot 20 of Said Addition, then southeasterly 290± lineal feet to a proposed manhole located on the northeast corner of Lot 45 of Said Addition, then southwesterly in and along an easement to the rear of Lots 42 through 45 and 31 through 35 inclusive, 800± lineal feet terminating at a proposed manhole.

LINE C

Beginning at a proposed pump station located near the northeast corner of Lot 15 thence southerly in an easement to the rear of Lots 7 through 14 inclusive, 1160± lineal feet terminating at a proposed clean-out located 5± lineal feet south of and 5± lineal feet west of the northeast corner of Lot 6 of Said Addition.

LINE D

Beginning at a proposed manhole located 1± lineal feet north of and 5± lineal feet west of the southeast corner of Lot 8 of Said Addition, thence westerly 310± lineal feet to a proposed manhole located on the common property corners of Lots 49 and 56 of Said Addition, thence northerly 195± lineal feet to a proposed manhole located 1± lineal feet east of and 5± lineal feet north of the southeast corner of Lot 52 of Said Addition.

All sewers consist of 8-inch sewer pipe in accordance with plans, specifications and profiles heretofore submitted to the City and now on file in the office of the Chief W.P.C. Engineer of the City Utilities of the City, and known as Westwood Valley Section 1 Sanitary Sewers, which plans, specifications and profiles are by reference incorporated herein and made a part hereof.

"C", THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER:

The Developer shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the City, under private contract to be let within sixty (60) days after requisite City approval. All work and materials shall be subject to inspection by City and the right of City to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed permanently connected into the sewer system of City until final acceptance by City. Upon completion, said sewer shall become the property of City and City shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by City, and all further maintenance thereafter shall be borne by City.

2. COST OF CONSTRUCTION:

The Developer agrees to pay the entire cost and expense of construction of said sewer, in cash, including City inspection fees, and to hold the City harmless from any liability for claims connected therewith.

3. AREA OF DEVELOPER:

Said sewer, when accepted by the City will serve the following portion of described real estate.

The West Half of the Northeast Quarter of Section 33, Township 31 North, Range 12 East, Allen County, Indiana, lying South of the Neuhaus Ditch and More particularly described as follows:

Beginning at the Southwest corner of the Northeast Quarter of Section 33, Township 31 North, Range 12 East, Allen County, Indiana; thence North 00 deg. 03 min. 31 sec. East (assumed bearing) along the West line of said Northeast Quarter of said Ditch with the following courses: North 62 deg. 47 min. 08 sec. East, 653.1 feet; North 42 deg. 54 min. 13 sec. East, 292.1 feet and North 56 deg. 15 min. 53 sec. East, 646.9 feet to the East line of the West Half of said Northeast Quarter; thence South 00 deg. 20 min. 05 sec. East along said East line, 1382.2 feet to the South line of said Northeast Quarter; thence South 90 deg. 00 min. 00 sec. West along said South line 1330.25 feet to the point of beginning; containing 27.96 acres, more or less, and subject to a right-of-way for West State Blvd. over the South 40 feet thereof, and all other legal easements and rights-of-way of record, of which Westwood Valley Section 1 represents the above.

As the Developer will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by the City for connection into City sewer mains and treatment of sewage therefrom.

4. CHARGE AGAINST DEVELOPER'S AREA:

An area connection charge of 14.622 acres at $610/acre and 2.501 acres at $300/acre must be paid to City before any construction commences. These charges are in addition to the local charge to install the sanitary sewer. These charges satisfy area connection and tap-in fee due the City on Spy Run Interceptor Res. 171 and Neuhaus Ditch Sanitary Sewer Interceptor System Res. 65-314-7.

5. BOND:

This contract is subject to Contractor furnishing a satisfactory Guaranty Bond for 25 per cent of the value of the sewer which shall

guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the City.

6. LIMITATION ON USE:

Said sewer shall be constructed for disposal of sanitary sewage only, and neither the parties hereto, their successors, or assigns or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION:

The Developer, for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce City to execute and ratify this contract, said Developer, for himself, his successors and assigns, agrees by this contract to vest in City the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

Developer further agrees that any deeds, contracts, or other instruments of conveyance made by the Developer, its successors or assigns, transferring or conveying any interest or title in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article, which provisions shall run with the land and the acceptance of the delivery of any such instrument from the Developer, his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

The Developer further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

Any owner of owners of land which is now, or hereafter located outside the corporate limits of City who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of such land or territory in which it is located or of the area served by said sewer.

8. GOVERNING STATUTE:

It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Section 16, 17, and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (I.C. 19-2-7-16, I.C. 19-2-7-17, I.C. 19-2-7-18), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.

9. COUNCILMANIC APPROVAL:

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly adopted Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

WESTWOOD DEVELOPMENT INC.

James L. Pallick

James L. Pallick, President "Developer"

Steven N. Cadwallader

Steven N. Cadwallader, Secretary "Developer"

CITY OF FORT WAYNE, INDIANA

BY Robert E. Armstrong

Robert E. Armstrong, Mayor "City"

BOARD OF PUBLIC WORKS

BY Henry P. Wehrenberg

Henry P. Wehrenberg, Chairman

BY

Ethel H. LaMar, Member

BY Max G. Scott

Max G. Scott

ATTEST:

Ursula Miller

Ursula Miller, Clerk

Approved as form and legality:

Larry J. Burke

Larry J. Burke
Associate City Attorney

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared James Pallick & Steve Cadwallader who acknowledged the execution of the foregoing agreement for sewer extension as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 19th day of March, 1979.

Lea J. Hall

Lea J. Hall, Notary Public
Resident of Allen County

My commission Expires:
5-20-81

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Robert Armstrong, Mayor; Henry P. Wehrenberg, Chairman of the Board of Public Works; ~~Ethel H. LaMar~~, and Max G. Scott, Members of the Board of Public Works; who acknowledged the execution of the foregoing agreement for sewer extension as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 4 day of April, 1979.

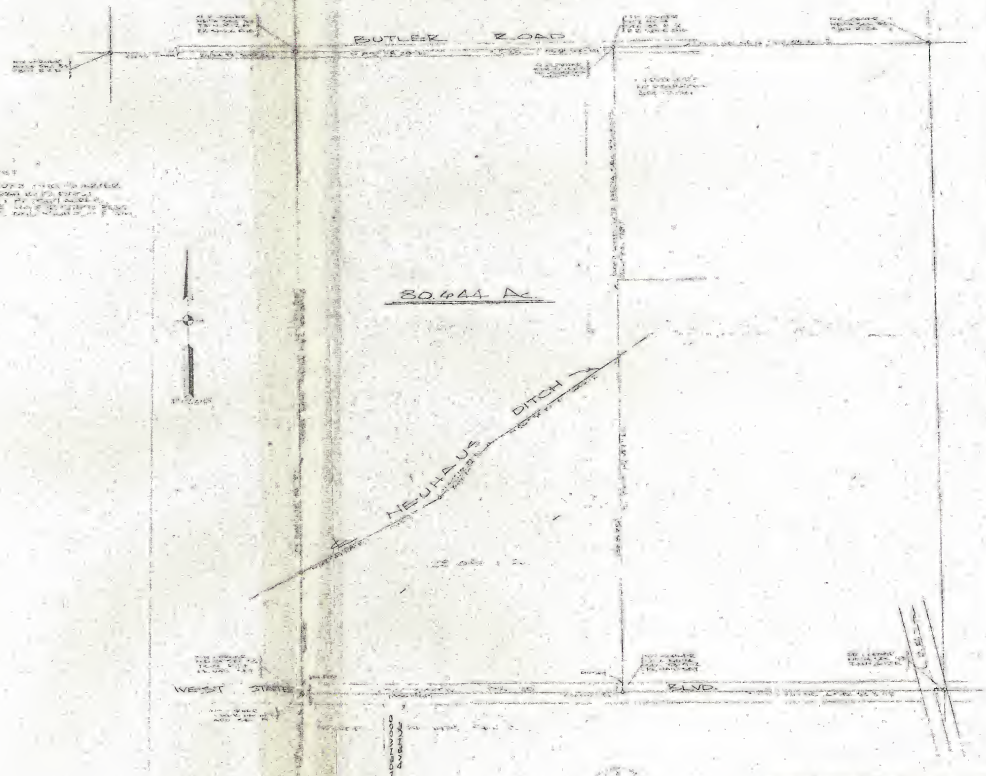
Annie J. Fox

Notary Public

Resident of Allen County, Ind.

My Commission Expires:
25-6-80

This instrument prepared by: Philip B. Rollom, Chief W.P.C. Engineer



STOODY - OWENS AND ASSOCIATES, INC.
REGISTERED LAND SURVEYORS
FORT WAYNE INDIANA

SURVEY OF N½ NE¼ SEC. 35-31-12

1 OF 1

THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

board of public works

March 26, 1979

The Common Council
Fort Wayne, Indiana

Gentlemen and Mrs. Schmidt:

The Board of Public Works is entering into an Agreement for Sewer Extension with Westwood Development, Inc., Developer, for the construction of a sanitary sewer to serve Westwood Valley, Section I.

This Agreement also provides for the lowering of some sanitary sewers along the east property line, so that it may serve City interests in the future. This alteration will cost $776., which amount will be deducted from developer's area connection fees.

Steven A. Cadwallader, representative of the above development firm, has requested prior approval, so that construction of said sewer may begin immediately to insure early completion preparatory to construction of homes in Westwood Valley.

Therefore, Board of Works respectfully requests "Prior Approval" so that construction may begin immediately.

Special Ordinance for formal approval will be submitted in the very near future.

Sincerely,

BOARD OF PUBLIC WORKS

Henry P. Wehrenberg

HENRY P. WEHRENBERG, CHAIRMAN

CITY OF FORT WAYNE

Robert E. Armstrong

ROBERT E. ARMSTRONG, MAYOR

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APPROVED:

MEMBERS OF THE COMMON COUNCIL

ATTEST:

Charles W. Westerman

CHARLES W. WESTERMAN, CLERK

AN EQUAL OPPORTUNITY EMPLOYER

4462

TITLE OF ORDINANCE SPECIAL ORDINANCE - AGREEMENT FOR SEWER EXTENSION - WESTWOOD VALLEY, SEC. I

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS S-79-04-19

SYNOPSIS OF ORDINANCE AGREEMENT FOR SEWER EXTENSION BETWEEN WESTWOOD DEVELOPMENT, INC. AND CITY OF FORT WAYNE BOARD OF WORKS, FOR THE CONSTRUCTION OF A SANITARY SEWER TO SERVE WESTWOOD VALLEY, SECTION I. CONSTRUCTION OF THE 8 INCH SEWER LINE TO BE DONE BY WESTWOOD DEVELOPMENT, INC., DEVELOPER FOR THE PROJECT.

(AGREEMENT ATTACHED)

PRIOR APPROVAL ACQUIRED MARCH 27, 1979

EFFECT OF PASSAGE CONSTRUCTION OF SANITARY SEWER TO SERVE WESTWOOD VALLEY, SECTION I

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) DEVELOPER TO PAY ENTIRE COST AND EXPENSE OF CONSTRUCTION OF ABOVE-DESCRIBED SEWER

ASSIGNED TO COMMITTEE

EP